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October 12, 1993

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Amendment of Section 73.202(b),
FM Table of Allotments
Chelan, East Wenatchee and Ephrata, Washington
(MM Docket No. 93-221, RM-8265)

Dear Mr. Caton:

Transmitted herewith on behalf of Hartline Broadcasters and TRMR, Inc. is an original and four copies of their reply comments in connection with the above-referenced rule making proceeding. These comments are respectfully directed to the Chief, Allocations Branch.

Should any questions arise concerning this matter, please contact this office directly.

Sincerely,


John F. Garziglia

Enclosures

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
Amendment of Section 73.202(b),) MM Docket No. 93-221
Table of Allotments,) RM-8265
FM Broadcast Stations.)
(Chelan, East Wenatchee)
and Ephrata, Washington))

To: Chief, Allocations Branch

REPLY COMMENTS

Hartline Broadcasters and TRMR, Inc., by their attorneys, pursuant to Notice of Proposed Rule Making and Order to Show Cause, DA 93-947, released August 4, 1993, hereby file their combined reply comments in support of the allotment of Channel 229C2 to East Wenatchee, Washington as its second local FM transmission service.^{1/} These reply comments are directed to the September 24, 1993 Comments on Notice of Proposed Rule Making and Counterproposal of KSEM, Inc. as supplemented by a September 28, 1993 Erratum; the September 21, 1993 Comments and Counterproposal of Brian J. Lord; and the September 24, 1993 Opposition to Order to Show Cause and Counterproposal of Northcentral Broadcasting. In reply thereto, the following is submitted:

1. KSEM, Inc. proposes the deletion of Channel 230C2 from Ephrata, Washington, and the allotment of Channel 230C3 to Moses Lake, Washington in substitution of Channel 257A at Moses Lake, and the modification of the license of KDRM(FM), Moses Lake, to specify operation on Channel 230C3. The proposal of KSEM, Inc.,

^{1/} The Notice of Proposed Rule Making provided that reply comments were to be filed on or before October 12, 1993. Accordingly, these reply comments are timely filed.

however, is defective. In Conflicts Between Applications and Petitions for Rule Making, 7 FCC Rcd 4917 (1992), it was determined that applications, once filed, serve to cut-off subsequent rule making proposals. See Section 73.208(a)(3)(iii). An application has been filed by TRMR, Inc. as a first-come first-serve application for Channel 230C2 at Ephrata. The proposal of KSEM, Inc. to allot Channel 230C3 to Moses Lake, Washington is short spaced by 146.51 kilometers to the application filed by TRMR, Inc. for Ephrata, Washington. See Exhibit No. 1. Accordingly, the KSEM, Inc. filing is an unacceptable counterproposal.^{2/}

2. Brian J. Lord counterproposes the allotment of Channel 229C3 to Cle Elum, Washington. His counterproposal is likewise short spaced to the application of TRMR, Inc. by 17.65 kilometers. See Exhibit No. 2. Therefore, it is also unacceptable under the rules established in Conflicts Between Applications and Petitions for Rule Making, 7 FCC Rcd 4917 (1992). See Section 73.208(a)(3)(iii).

3. Northcentral Broadcasting, the licensee of KOZI-FM, Chelan, Washington, does not object to the allotment of Channel 229C2 to East Wenatchee, Washington. It requests, however, that

^{2/} As described in Reconsideration to Conflicts Between Applications and Petitions for Rule Making, FCC 93-339, released July 13, 1993, there is a procedure under which KSEM, Inc. may amend its counterproposal to protect the transmitter site of the previously filed TRMR, Inc. application. KSEM, Inc. to this date, however, has not attempted such an amendment. With a short spacing of 146.51 kilometers, such an amendment is probably not possible.

the proposed substitution of Channel 238A for Channel 228A at Chelan, Washington (and the modification of the license of KOZI-FM to specify operation on Channel 238A) be amended to substitute Channel 234A for Channel 228A. Northcentral Broadcasting attaches a technical study showing that Channel 234A can be used from KOZI-FM's existing site in accord with all applicable spacings. Northcentral Broadcasting advocates the substitution of Channel 234A for Channel 228A at Chelan, and the modification of KOZI-FM's facility, irrespective of the resolution of the community of license change proposed from Ephrata to East Wenatchee. Hartline Broadcasters and TRMR, Inc. support the proposal of Northcentral Broadcasting to substitute Channel 234A for Channel 228A at Chelan, Washington and to modify the license of KOZI-FM to specify operation on Channel 234A.

4. As shown in the September 24, 1993 Comments of Hartline Broadcasters and TRMR, Inc., the Commission should proceed with the allotment of Channel 229C2 to East Wenatchee, Washington as its second local FM transmission service, and allow TRMR, Inc. cut-off protection in this rule making proceeding. Such cut-off protection would allow TRMR, Inc. to amend its application to specify a facility for East Wenatchee, Washington on Channel 229C2. Further, in accord with the proposal of Northcentral Broadcasting, Channel 234A should be substituted for Channel 228A at Chelan, Washington, and the license of KOZI-FM, Chelan should be modified to specify operation on Channel 234A.

WHEREFORE, for the reasons above, Channel 229C2 at East Wenatchee, Washington should be substituted for Channel 230C2 at Ephrata, Washington.

Respectfully submitted,

**HARTLINE BROADCASTERS
TRMR, INC.**

By: _____


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Their Attorney

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October 12, 1993

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WASHINGTON DC

Proposal of KSEM, Inc.
Short Spaced to TRMR, Inc. Application

REFERENCE		CLASS C3	DISPLAY DATES
47 06 04 N			DATA 08-25-93
119 19 59 W	Current rules spacings		SEARCH 10-12-93
----- CHANNEL 230 - 93.9 MHz -----			

CALL	CH#	CITY	STATE	BEAR'	D-KM	R-KM	MARGIN
DE230	230C2	Ephrata	WA	313.3	19.47	177.0	-157.53 *
ALOPEN	230C2	Ephrata	WA	313.3	19.47	177.0	-157.53 *
AP230	230C2	Ephrata	WA	338.4	30.49	177.0	-146.51 *
AD229	229C2	East Wenatchee	WA	294.2	86.98	117.0	-30.02 *
KDRKFM	229C	Spokane	WA	72.9	177.86	176.0	1.86 <
KCLKFM	231C	Clarkston	WA	112.8	184.88	176.0	8.88
KMPFSM	231C	Seattle	WA	282.6	204.74	176.0	28.74
KATS	233C1	Yakima	WA	234.8	109.42	76.0	33.42

PEPPER & CORAZZINI
WASHINGTON DC

Proposal of Brian J. Lord
Short Spaced to TRMR, Inc. Application

REFERENCE		CLASS C3	DISPLAY DATES
47 10 30 N			DATA 08-25-93
120 46 00 W	Current rules spacings		SEARCH 10-12-93
----- CHANNEL 229 - 93.7 MHz -----			

CALL	CH#	CITY	STATE	BEAR'	D-KM	R-KM	MARGIN
AD229	229C2	East Wenatchee	WA	46.7	40.02	177.0	-136.98 *
DE230	230C2	Ephrata	WA	86.9	94.61	117.0	-22.39 *
ALOPEN	230C2	Ephrata	WA	86.9	94.61	117.0	-22.39 *
AP230	230C2	Ephrata	WA	78.3	99.35	117.0	-17.65 *
KMPSFM	231C	Seattle	WA	291.8	98.35	96.0	2.35 <
KOZIFM	228A	Chelan	WA	41.9	101.04	89.0	12.04
DE228	228A	Chelan	WA	41.9	101.04	89.0	12.04
KUBE	227C	Seattle	WA	292.0	109.33	96.0	13.33
KDRKFM	229C	Spokane	WA	81.0	281.64	237.0	44.64


CERTIFICATE OF SERVICE

I, Tracey Westbrook, a secretary in the law firm of Pepper & Corazzini, do hereby certify that true copies of the foregoing reply comments were sent this 12th day of October, 1993, by first-class United States mail, postage prepaid, to the following:

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Tracey Westbrook